



Association of California School Administrators

SUSPENSION/EXPULSION HANDBOOK

January 2000

SUSPENSION/EXPULSION HANDBOOK

"The guidance in this Handbook is not binding on local education agencies or other entities. Except for the statutes, regulations, and court decisions that are referenced herein, this Handbook is exemplary, and compliance with it is not mandatory. (See Education Code § 33308.5.)"

Acknowledgement

Many thanks are due to a hard-working committee who met multiple times to bring together ideas from around the state and share resources to develop this checklist and handbook.

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I. Introduction

School administrators are presented with complex disciplinary issues. Some of these situations involve students with disabilities who are entitled to certain protection under the Individuals with Disabilities Education Act (IDEA).

This Association of California School Administrators (ACSA) Suspension/Expulsion Handbook is a tool to develop district procedures for disciplining students with disabilities. It provides step-by-step directions, sample forms developed over the last two years by districts and attorneys, and cites relevant sections of applicable laws and regulations. Also available is the Suspension/Expulsion Handbook Checklist at <http://www.cde.ca.gov/spbranch/sed/susexchk.pdf>.

Federal special education law or IDEA requires that pupils with disabilities receive a “free appropriate public education” in the “least restrictive environment”, based on the pupil’s individualized education program. If a pupil in special education is dangerous to himself or others, or violates a discipline policy, and the pupil’s behavior is shown to be a manifestation of the pupil’s disability, the pupil may be removed from the classroom (suspended) for a maximum of ten days. Suspensions for longer than ten days constitute a change in placement, and absent agreement of the parents, procedures for a change in placement must be followed.

In IDEA, the cessation of educational services of dangerous and unruly pupils requiring special education instruction and/or services is prohibited for more than ten days. However, the California Education Code does allow administrators, with parent consent, to place those pupils who bring firearms, weapons and/or illegal drugs to school in an interim alternative education setting for a maximum of 45 days. If parent consent cannot be obtained, a court order may be required to move the pupil to an Interim Alternative Education Setting (IAES). If the pupil’s behavior is deemed unrelated to the disability, through the manifestation determination process, the school may follow the usual course of discipline, subject to the parents’ right to request a due process hearing.

This handbook is designed to be a working document due to the ever-changing impact of new state and federal legislation. The ACSA Pupil Services and Special Education Committee has committed to a monitoring and review process regarding this handbook to ensure that any new legislation which impacts this information will be addressed. Urgency legislation especially will be monitored. Any changes will be incorporated into this document in updates. It should be noted that appendixes were developed before the date of this publication and will also need to be updated.

Narrative

A. How to Suspend

When misconduct occurs, an investigation of the student's behavior must be conducted. The investigation of the student's behavior should include an interview of potential witnesses who have viewed the alleged misconduct, an interview of the pupil who is alleged to have committed the misconduct, and preparation of witness statements.

Based on the evidence, identify the Education Code violation (Sections 48900 (a-o), 48900.2, 48900.3, 48900.4, and/or 48900.7). (See Appendix A).

If the violation warrants notification of law enforcement, the principal/designee notifies the law enforcement agency. Education Code Sections 48902 and 44014 require notification for assault of school employees, weapon possession or specified controlled substance, including arranging the sale of and delivering a controlled substance look-alike.

Notice to Law Enforcement

Nothing in the law prohibits a school district from reporting a crime committed by a pupil with a disability to appropriate authorities or to prevent law enforcement and judicial authorities from exercising their responsibilities with regard to the application of law to crimes committed by a pupil with a disability. It is now a responsibility of the district to ensure that copies of the special education and disciplinary records of the pupil are transmitted for consideration by the appropriate authorities to whom the crime is reported (20 USC 1415). Copies of the pupil's special education and disciplinary records may be transmitted only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g et seq.).

Determining if Pupil has a Disability

The next step should be to determine if the pupil has (or may have) a disability. Ask the following questions:

- Does the pupil have an Individualized Education Program (IEP)?
- Does the pupil have a plan pursuant to Section 504 of the Rehabilitation Act of 1973?
- Does prior knowledge of a disability exist?

Review the records to determine if prior knowledge of a disability exists. (See definition of prior knowledge below.)

A pupil who is not a previously identified pupil with disabilities and who has committed a suspendable or expellable act is entitled to the same protections as a previously identified pupil with disabilities if the district had knowledge the pupil was a child with a disability before the occurrence of the behavior that precipitated the disciplinary action.

Definition of Prior Knowledge (20 USC 1415):

1. Parent has expressed a concern in writing (unless parent is illiterate or has a disability preventing compliance with this writing requirement) to district personnel that the pupil needs special education.
2. Pupil's behavior or performance demonstrates a need for special education services.
3. Parent has requested in writing a special education evaluation of the pupil.
4. Pupil's teacher or other district personnel has expressed concern about the pupil's behavior or performance to the special education administrator or to other district personnel.

The intent of the California Legislature is that alternatives to suspension/expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities. (See Appendix B for sample alternatives to suspension and expulsion.)

For suspension by a principal/designee or superintendent, the following steps must take place (Education Code Sections 48911). A teacher may also suspend a pupil from a class, as per Education Code Sections 48910. (See Appendix C.)

Suspension Actions and Applicable Timelines

Prior to suspension	Hold an informal conference between the pupil, the principal or the principal's designee and, whenever practicable, the teacher or supervisor who referred the pupil to the principal. At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present their version and evidence in his or her defense (Education Code Section 48911 (b)).
Suspension first school day	Reasonable effort shall be made to contact the pupil's parent or guardian in person or by telephone. Whenever a pupil is suspended from school, notify the parent or guardian. Whenever a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension (Education Code Section 48911 (d)). Report the suspension of the pupil to the governing board of the school district or to the district superintendent in accordance with board regulations (Education Code Section 48911 (e)).
Two school days	Provide notification to both the pupil and the parent of the right to attend a conference, if an informal conference was not held due to an emergency situation. An "emergency situation" means "a situation that constitutes a clear and present danger to the lives, safety, or health of pupils or school personnel" (Education Code Section 48911(c)).

Five school days	Principal's authority to suspend limited to five consecutive school days. If there is a recommendation for expulsion, it must be made in writing to the superintendent/designee, who determines whether or not to extend the suspension. The recommendation to expel must be made no later than the fifth day of the suspension.
Ten school days	<p>Pupils with disabilities cannot be suspended for more than ten school days without holding a manifestation determination/ Individual Education Program (IEP) to determine appropriate placement and special education services. Students with disabilities can be suspended for up to, but not more than ten consecutive school days. In the case of a truly dangerous child, a suspension may exceed 10 consecutive schooldays, or the pupil's placement may be changed, or both, if either of the following occurs:</p> <ol style="list-style-type: none">1.The pupil's parent or guardian agrees.2. A court order so provides (Education Code Section 48911 (h)). <p>Multiple days of suspension of a special education/Section 504 pupil should raise questions concerning the relationship between the pupil's identified disability and his/her misconduct and the appropriateness of the pupil's program or placement. If a pupil has an IEP, a behavior plan must be considered. If the pupil has a recognized Section 504, a behavior plan should be considered.</p>
Twenty school days	<p>Restrictions on days of suspension (Education Code Section 48903)</p> <p>Exceptions: Education Code Section 48911 (g) regarding continuation school pupils; Education Code Section 48911 (h) regarding limit of days for a pupil with disabilities who may be suspended if he/she poses an immediate threat to the safety of himself or herself or others; and Education Code Section 48912.5 regarding continuation school pupils. An IEP meeting is recommended to evaluate behavior plan.</p>
Thirty school days	A limit of thirty school days of suspension is allowed after the enrollment or transfer of pupil to another regular school, an opportunity school or class, or a continuation school or class for purposes of adjustment.
Suspension is reported to governing board or superintendent in accordance with board regulations (Education Code Section 48911(e)). (See Appendix D for other Education Code sections of interest.)	

If the suspended pupil is a pupil with a current IEP or who may have a disability, immediately contact the special education/pupil services administrator according to district procedures.

B. When to Recommend Expulsion

After suspending a pupil, the following three questions should be asked regarding possible expulsion procedures.

- Does the violation require a mandatory expulsion? Education Code Section 48915 (c) requires the principal or superintendent of schools to immediately suspend and recommend for expulsion pupils determined to have committed the following acts:
 - Possessing, selling, or otherwise furnishing a firearm. The possession must be verified by a school district employee.
 - Brandishing a knife at another person.
 - Unlawfully selling a controlled substance.
 - Committing or attempting to commit a sexual assault or committing a sexual battery.

The Governing Board is required to order the expulsion of a pupil upon a finding that the pupil committed one of the above acts and is required to refer the pupil to a program in accordance with Education Code Section 48915 (d) conditions that meet the following:

- Is appropriately prepared to accommodate pupils who exhibit discipline problems.
 - Is not provided at comprehensive middle, junior or senior high school, or any elementary school.
 - Is not housed at school site attended by pupil at time of suspension unless county superintendent certifies otherwise.
- Does the violation require a mandatory recommendation for expulsion (Education Code Section 48915 (a))?

The superintendent or the principal shall recommend the expulsion of a pupil determined to have violated Education Code Section 48915 (a)(1-5) for any of the following, unless the principal or superintendent finds that expulsion is inappropriate due to the particular circumstances.

- Causing serious physical injury to another person, except in self-defense.
- Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil.
- Unlawful possession of any controlled substance, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- Robbery or extortion.
- Assault or battery, as defined in Penal Code Sections 240 and 242, upon any school employee.

Additional findings required:

- Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; and/or

- Due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

A referral to an appropriate program of study must be made in accordance with Education Code Section 48915 (d).

- Does the violation authorize a permissive recommendation for expulsion (Education Code Sections 48900 (a-o), 48915 (b) (e))? See Appendix A.

The superintendent or the principal may recommend the expulsion of a pupil determined to have violated Education Code Sections 48900 (a-m, o), 48900.2, 48900.3, 48900.4 and/or 48900.7. Pursuant to Education Code Sections 48915 (b), upon recommendation by the principal, superintendent, or hearing officer or administrative panel, the governing board may order a pupil expelled upon a finding that the pupil committed an act listed above.

The grounds for expulsion under Education Code Sections 48900 are 48900 (a-e):

- Caused, attempted to cause, or threatened to cause physical injury to another person (Education Code Section 48900 (a) (1);
- Willfully used force or violence upon the person of another, except in self-defense (Education Code Section 48900 (a) (2);
- Assault or battery, as defined in Penal Code Sections 240 and 242, upon school employee (Education Code Section 48900 (a.1 & a.2); Penal Code Section 240 & 242);
- Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil (Education Code Section 48900 (b);
- Unlawful possession of any controlled substance, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (Education Code Section 48900 (c));
- Unlawfully offered, arranged or negotiated to sell any controlled substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant. (Education Code Section 48900 (d)); and
- Robbery or extortion (Education Code Section 48900 (e)).

The prohibited acts under Education Code Section 48915(e) are 48900(f-m, o), 48900.2, 48900.3, 48900.4, 48900.7 as listed below:

- Caused or attempted to cause damage to school property or private property (Education Code Section 48900 (f));
- Stole or attempted to steal school property or private property (Education Code Section 48900 (g));
- Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel (Note: this section does not prohibit use or possession by a pupil of his or her own prescription products) (Education Code Section 48900 (h));
- Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code Section 48900 (i));

- Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia (Education Code Section 48900 (j));
- Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties Education Code Section 48900 (k));
- Knowingly received stolen school property or private property (Education Code Section 48900 (l));
- Possessed an imitation firearm (Education Code Section 48900 (m));
- Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both (Education Code Section 48900 (o));
- Committed sexual harassment (Education Code Section 48900.2)
- Caused, attempted to cause, threatened to cause, or participated in an act of hate violence (pupils in grades 4 to 12 only) (Education Code Section 48900.3);
- Intentionally harassed, threatened, or intimidated a pupil or group of pupils (grades 4 to 12 only) (Education Code Section 48900.4);
- Superintendent or school principal determines the pupil had made terroristic threats against school officials or school property, or both (Education Code Section 48900.7);

A decision to expel must be based on a finding of one or both of the following:

- Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; and/or
- Due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others. (Education Code Section 48915(b))

A referral to an appropriate program of study must be made in accordance with Education Code Section 48915(d).

C. How to Expel

When a student is being considered for expulsion proceedings, the parent(s) and pupil must be invited to participate in a meeting with the superintendent or designee to determine whether or not the suspension should be extended. The decision to extend the suspension must be based on specific findings that the presence of the pupil at school or in an alternative school placement would cause a danger to persons or property or be a threat of disrupting the instructional process. The parent(s) and pupil must be notified of this decision in writing.

For pupils with a current IEPs or 504 access plans, a suspension may only be extended to a date that does not cause the total number of consecutive days of suspension to exceed ten school days.

D. How to Expel Students With Special Needs

For pupils with IEPs, there are additional pre-expulsion procedures that must be followed.

Date on which decision
to take action is made

The parent and pupil are notified of the suspension of ten school days or referral to interim alternative educational setting. 20 USC Section 615 (k) (l) (A) (I), IDEA (Education Code Sections 48911 c, h)

The parent and pupil are notified of all procedural safeguards, including the right to request a due process hearing to challenge the placement determination or the results of the manifestation determination. Stay put provisions are applicable (Education Code Section 48915.5 (g)).

Weapons/Drugs

An Interim Alternative Education Setting (IAES) may be imposed with parent consent or a court order on a pupil who violated rules related to weapons or drugs. The new setting becomes the placement for the pupil. New federal law, IDEA, allows for 45-day IAES, but California law currently does not allow this option. (Education Code Section 48915 (f)) 20 USC (Section 615 (k) (l) (A) (ii))

Safety/Dangerousness

1. A school district may seek a court order placing a student in an IAES for up to 45 days if (Urgency legislation is being introduced to conform California Education Code to federal law, IDEA):
 - a. the district has demonstrated by substantial evidence that maintaining the current placement is substantially likely to result in injury to the student or others;
 - b. the current placement is appropriate; and
 - c. the district has made reasonable efforts to minimize the risk of harm in the current placement.

The IDEA states:

A hearing officer may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer:

- a) determines that the LEA has demonstrated by substantial evidence (defined as “beyond a preponderance of the evidence”) that maintaining the current educational placement of such child is substantially likely to result in injury to the child or to others;
- b) considers the appropriateness of the child’s current placement;

- c) considers whether the LEA has made reasonable efforts to minimize the risk of harm in the child's current educational placement, including the use for supplementary aids and services; and
- d) determines that the interim alternative educational setting enables the child to continue to participate in the general curriculum although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP, and includes services and modifications designed to address the behavior so that it does not recur. 20 USC (Section 615 (k)(2))

The IAES must enable the pupil to:

- Continue to participate in the general education curriculum;
- Continue to receive special education instruction and services and modifications, as indicated on the IEP; and
- Receive services and modifications designed to address and prevent recurrence of the behavior.

E. Procedural Safeguards

The district must send written notice to the parent of the intent to conduct a pre-expulsion assessment (34 Code of Federal Regulation (CFR) Section 300.504) containing:

- Delivery of notice to parent at the same time as the notice of suspension.
- Full explanation of procedural safeguards.
- A description of the proposed district action(s).
- Development of an assessment plan which includes a description of the evaluation procedures and tests to be used.

The district must provide a written notice to the parent of the intent to conduct an IEP team meeting to make a manifestation determination (34 CFR Section 300.505).

- Notice must be provided to parent at least forty-eight hours in advance of the meeting.
- District must provide a full explanation of procedural safeguards.
- Notice must include an explanation of the possibility of an appropriate IAES for up to forty-five calendar days when alleged misconduct involves weapon(s) or drugs.
- An IEP team meeting is then held to determine the IAES.

For pre-expulsion assessment and manifestation determination, the district conducts that process (34 CFR Section 104.35; Education Code Section 48915.5 (e)) as follows.

- Must be completed within the ten school day suspension time frame.
- Must be in accordance with state and federal guidelines.
- Must include a behavior assessment and analysis.
- Must review an existing behavior intervention plan or develop a proposed behavior intervention plan, if needed.
- Must include an observation of the pupil.

Under California law, parental consent is not required after documentation of efforts to obtain parental consent; however, the parent must make pupil available to school personnel for the pre-expulsion assessment.

An IEP team meeting must be held to make the manifestation determination (Education Code Section 48915.(f-h), 48915.5 (a) (3)) and 1997 IDEA Amendments Section 615(k)(4)(C)(i)(I-III)) with the following guidelines:

- Meeting must be held within the ten school day suspension time frame
- Parent may request a postponement of up to three additional school days (However, the suspension shall not be extended beyond ten school days unless agreed to by the parent or by a court order or hearing officer decision.)
- IEP team must review all relevant information including:
 1. Results of pre-expulsion assessment;
 2. Observations;
 3. Pupil health records;
 4. Pupil discipline records;
 5. Relevant parent information;
 6. Conduct or behavioral intervention plan (if any);
 7. IEP, including placement
- Consideration of strategies, including positive behavioral interventions and supports to address the behavior which resulted in the recommendation for expulsion
- Conduct a functional behavioral assessment if no current behavior intervention plan exists
- If there is a behavior intervention plan, review

The IEP team must determine (20 USC 615 (k)(4)(c)(11)(I-III) and Education Code Section 48915.5):

1. If IEP placement was appropriate;
2. If supplementary aids and services were provided;
3. If behavioral interventions were provided consistent with the IEP and placement;
4. If the pupil's disability impaired the ability of the pupil to understand the impact and consequences of the behavior or to control the behavior; and
5. If alleged misconduct was not caused by or was not a direct manifestation of the pupils identified disability.

Unless the IEP team makes each of the above listed determinations, the expulsion process stops. The IEP team must discuss behavioral interventions and make appropriate changes to the placement instruction and/or services.

If the pupil is deemed appropriately placed and the pupil's conduct is not related to his/her identified disability, the expulsion process may proceed. NOTE: If the parent(s) disagrees, the parent(s) has a right to request an expedited due process hearing concerning the placement decision or the manifestation determination.

If an expedited due process hearing is requested, the parent(s) may invoke the stay put provision and the expulsion process is suspended until due process is completed. The stay put provision requires that the pupil remain in his/her current placement.

If the expulsion process continues for a pupil with an IEP, and unless an agreement is reached with the parent or a court order provides otherwise, the pupil is entitled to the following (Education Code Section 48916.1):

1. To continue to participate in general education curriculum;
2. To continue to receive IEP services and modifications; and
3. To continue to receive services and modifications designed to address and prevent recurrence of behavior.

If the student is expelled, there can be no cessation of special education instruction and services.

F. Conducting the Expulsion Hearing (Education Code Sections 48918 - 48924)

Prior to a hearing to consider expulsion, the district office must prepare and send to the parents and pupils a Notice of Hearing, which includes the following procedural safeguards:

1. Notice of the specific facts and charges upon which recommendation for the expulsion is based;
2. Notice that the principal or designee is recommending expulsion;
3. A copy of the district's disciplinary rules relating to the alleged violation.
4. Date, time and place of the hearing;
5. Notice that the pupil may request, in writing, an open hearing at least five days prior to the date of the hearing. If not, the hearing shall be conducted in closed session. In either case, deliberations may be conducted in closed session;
6. Notice that the parent may request postponement of not more than thirty days;
7. Notice of opportunity for the pupil to appear in person or to employ and be represented by counsel. If the pupil is to be represented by counsel, notify the pupil of the responsibility to inform the district on or before [date];
8. Notice of opportunity for the pupil to inspect and obtain copies of all documents to be used at the hearing;
9. Notice of opportunity for pupil to confront and question all witnesses who testify at the hearing;
10. Notice of opportunity for the pupil to question and challenge all other evidence presented;
11. Notice of opportunity for the pupil to present oral and documentary evidence on the pupil's behalf; and
12. Notice of pupil's/parent's obligation under Education Code Section 48915.1(b).

The following timelines have been provided to assist with the hearing process:

Thirty school days

The pupil and the pupil's parent or guardian shall be entitled to an expulsion hearing to determine whether the pupil should be expelled. This hearing must occur within thirty school

days of the date it is determined that the pupil has committed any of the acts enumerated in Education Codes Sections 48900, 48900.2, 48900.3, 48900.4 and/or 48900.7 (Education Code Section 48918 (a)).

Ten calendar days

Written notice of the expulsion hearing shall be forwarded to the pupil and the pupil's parent or guardian at least ten calendar days prior to the date of the hearing (Education Code Section 48918(b)).

Five school days

For good cause, the district may extend the time period for holding an expulsion hearing for up to five school days (Education Code Section 48918(a)).

Not more than thirty calendar days

The pupil is entitled to one postponement of the hearing not to exceed thirty calendar days (Education Code Section 48918(a)).

The governing board may issue subpoenas (Education Code Section 48918 (i) (1)).

A record of the hearing shall be made (Education Code Section 48918 (g)).

A decision to expel must be based on substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in Education Code Section 48918(f), no evidence to expel shall be based solely upon hearsay evidence.

Sworn declarations may be used upon a finding that good cause exists to determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon such a determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the governing board or the hearing officer or administrative panel (Education Code Section 48918(f)). Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil (Education Code Section 48918(f)).

An Administrative Hearing Panel/Hearing Officer, which makes the recommendation to expel or a decision not to expel, may conduct an Expulsion Hearing. For an Administrative Hearing Panel, the following timelines must be adhered to:

Within thirty days of suspension

The expulsion hearing must be held unless an extension has been requested.

Three school days

Within three school days following the hearing the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board.

Within forty days of suspension

the governing board shall make its decision about a pupil's expulsion within forty school days after the date of the pupil's removal from his/her school of attendance for the incidence for which the recommendation for expulsion is made by the principal or the superintendent unless the pupil requested in writing that the decision be postponed (Education Code Section 48918(a)).

A decision of the governing board whether to expel a pupil shall be made within ten days of the date following the conclusion of the expulsion hearing, unless pupil requests in writing that the decision be postponed (Education Code Section 48918(a)).

At the time of the expulsion order:

- The Board must set a date when the Board shall review the pupil for readmission to a school maintained by The district. Mandatory expulsion is one year from the date of the decision to expel. Other expulsion terms may not be longer than the last day of the semester following the semester in which the pupil is expelled. A description of the district regulations on the procedure for filing and processing readmission requests must be made available at the time the expulsion order is entered. (48916 (a))
- The Board must ensure that an education program is provided to the pupil. (48916.1 (a))
- The Board must recommend a plan of rehabilitation. (48916.1 (b))

A notice of decision to expel must be sent to the parent or guardian and the pupil by district superintendent or designee. The notice shall include the right to appeal to the County Board of Education within thirty days (Education Code 48918(1)) and the pupil's/parent's obligation (Education Code Section 48915.1 (b)). The expulsion order is recorded in the pupil's mandatory interim record and shall be forwarded to a school in which the pupil enrolls upon the school's request for the pupil's records.

G. Educational Programs for Expelled Pupils (Education Code Sections 48916.1; 48926)

If the expulsion process continues for a pupil with an IEP, unless an agreement is reached with the parent or a court order provides otherwise, the pupil is entitled to the following:

1. To continue to participate in general education curriculum.
2. To continue to receive IEP services and modifications.
3. To receive services and modifications designed to address and prevent recurrence of inappropriate behavior.

If the student is expelled, there can be no cessation of special education instruction and services.

Programs of study for expelled students must be:

- Appropriately prepared to accommodate pupils who exhibit discipline problems.
- Not provided at comprehensive, middle, junior, or senior high school or any elementary school nor housed at school site attended by pupil at time of suspension (unless county superintendent certifies otherwise).
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The following timeline indicates the procedural safeguards for an expulsion appeal (Education Code Sections 48919 and 48919.5):

Thirty calendar days	Pupil, parent or guardian may appeal to the County Board of Education within thirty calendar days following the decision to expel by the governing board.
Twenty school days	The County Board of Education shall hold a hearing within twenty school days of the request.
Three school days	<p>The County Board of Education shall render a decision within three school days of the hearing.</p> <p>If the appeal hearing is conducted by a hearing officer or impartial administrative panel, the officer or panel shall prepare a recommended decision, including any necessary findings or conclusions, and submit the recommendation to the County Board of Education within three school days of the hearing.</p>
Ten school days	If the appeal hearing is conducted by a hearing officer or impartial administrative panel, the County Board of Education shall render a final order within ten school days of receiving the recommendation.

H. Readmission Guidelines

- Upon completion of the readmission process, the Board must readmit the pupil, unless the Board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other district pupils or employees.
- If the Board denies the readmission of an expelled pupil, the Board must make a determination either to continue the placement of the pupil in the alternative educational setting initially selected for the pupil during the expulsion period or to place the pupil in another program that

may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

- The Board must provide written notice to the expelled pupil and his/her parent or guardian describing the reasons for denying the pupil readmission into the regular school district program.
- The notice must also include a determination of the educational program for the expelled pupil. The expelled pupil must enroll in that educational program unless the pupil's parent or guardian elects to enroll the pupil in another school district (Education Code Sections 48916).

NOTE: An Administrative Expulsion Panel may be used in some districts to make readmission recommendations to the Board for action.

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APPENDIX

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- Q. Sample Notice of Expulsion Order and Suspension of Expulsion Order
- R. Special Education Expulsion Process
- S. A List of Do's for Expulsion Hearings
- T. A List of Do Not's for Expulsion Hearings

APPENDIX A

EDUCATION CODE Sections 48900

A pupil may not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has:

- (a)
 - 1. Caused, attempted to cause, or threatened to cause physical injury to another person.
 - 2. Willfully used force or violence upon the person of another except on self defense.
- (b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material, as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stolen or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

- (l) Knowingly received stolen school property, or private property
- (m) Possessed an imitation firearm. (“imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.)
- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
- (o) Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that the pupil from being a witness or retaliating against that pupil for being a witness, or both.
- (p) A pupil may not be suspended or expelled for any of the acts enumerated unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of principal or occurring within any other school. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to any of the following:
 - (1) While on school grounds.
 - (2) While going to or coming from school.
 - (3) During the lunch period whether on or off the campus.
 - (4) During, or while going to or coming from, a school-sponsored activity.

EDUCATION CODE SECTION 48900.2

Sexual Harassment

...a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have negative impact upon the individual’s academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

PENAL CODE 212.5

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting.

- (a) ...employment, academic status, or progress.

- (b) submission to, or rejection of ... used as the basis of employment or academic decisions...
- (c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
- (d) Submission, to, or rejection of ... used as the basis for any decision affecting the individual regarding benefits and services, honors, programs...

EDUCATION CODE SECTION 48900.3

Hate Violence

A pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determined that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of hate violence. Education Code Section 48900.3

“Hate violence” means any act punishable under Sections 422.6, 422.7, or 422.75 of the Penal Code.

PENAL CODE SECTION 422.6

Interference with exercise of civil rights; damaging property; punishment; speech.

- (a) No person, whether or not acting under color of law, shall be force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of the state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics.
- (b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics.
- (c) No person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the group of persons and that the defendant had the apparent ability to carry out the threat.

PENAL CODE 422.7

Aggravating factors for punishment.

PENAL CODE 422.75

Protected classes; enhanced penalty for felonies against person or property of public agency or private institution because of class membership.

EDUCATION CODE SECTION 48900.4

Harassment, Threats, or Intimidation

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil in grades 4 to 12 may be suspended from school or recommended for expulsion if the superintendent or the principal determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against a pupil or group of pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, or invading the rights of that pupil or group of pupils by creating an intimidating or hostile educational environment.

EDUCATION CODE SECTION 48900.7

Terroristic threats against school officials or school property, or both

- (a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.
- (b) For the purposes of this section, “terroristic threat” shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family. (Added Stats. 1997, Ch. 405, Sec. 1)

APPENDIX B

ALTERNATIVES TO SUSPENSION

Attendance of suspended pupil's parent/guardian for a portion of the school day (Education Code Section 48900.1)

- (a) Authorizes teachers to provide that the parent/guardian attend a portion of the school day in his or her child's classroom. Applies to § 48900 (k) violations only.

Community service on school grounds during non-school hours (Education Code Section 48900.6)

The principal/designee may require a pupil to perform community service on school grounds during nonschool hours. Community service may include work performed on school grounds in the areas of outdoor beautification, campus betterment, and teacher or peer assistance programs. This section does not apply if the article requires suspension or expulsion.

Supervised suspension classroom (Education Code Section 48911.1)

- (a) Alternative for Sections §48900 and 48900.2 violations if the pupil poses no imminent danger or threat to the campus, pupils, staff, or if an action to expel the pupil has not been initiated.
- (b) Pupils assigned to the supervised suspension classroom shall be separated from other pupils at the school site in a separate classroom, building, or may be assigned to a separate site, specifically for pupils under suspension.
- (c) Apportionments may continue to be claimed if:
 - (1) The classroom is staffed as otherwise provided by law.
 - (2) Each pupil has access to appropriate counseling services.
 - (3) The intent of the class is to promote completion of schoolwork and tests missed during the suspension.
 - (4) Each pupil is responsible for contacting teacher(s) to obtain assignments. The teacher(s) shall provide all assignments and tests that the pupil will miss while suspended.
- (d) The pupil's parent/guardian shall be notified, in person or by telephone, that the pupil was assigned to the supervised suspension classroom. If the pupil is assigned to the class for longer than one class period, the parent shall be notified in writing.
- (e) This alternative does not place any limitation on the district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.
- (f) Apportionments claimed by the district for pupils assigned to the supervised suspension classroom shall be used specifically to mitigate the costs of implementing this section.

Alternatives to off-campus suspension (Education Code Section 48911.2)

This section emphasizes a progressive discipline approach that may include:

- Conferences between school staff, parents, and pupils.
- Referral to school counselor, psychologist, child welfare attendance personnel or other school support service staff.
- Detention.
- Study teams, resource panel teams, or other assessment-related teams.

Opportunity school or class (Education Code Section 48903)

A pupil may enroll or be transferred to an opportunity school or class for purposes of adjustment. When such a transfer occurs, the total number of days the pupil may be suspended shall not exceed 30 days in any school year.

Community day school (Education Code Sections 48660-48666 - Community Day School Programs) (Education Code Section 48915.01 - Expulsion Rehabilitation Plan Referral)

Expulsion rehabilitation plan referral (Education Code Section 48915.01)

The governing board may establish a community day school for expelled pupils and does not have to meet the requirement of a separate site:

- For K-6 pupils if the board certifies that no other satisfactory alternative facilities are available [Education Code 48661 (a)].
- For 7-12 pupils if the county superintendent of schools certifies that no alternative program of study is available [Education Code Section 48915(f)].

The same certification is an option for pupils in grades 7-12 for districts with 2,500 or fewer pupils [Education Code Section 48661 (b)].

APPENDIX C

SUSPENSION BY A TEACHER

1. Pupil commits act(s) enumerated in Education Code Section 48900 et. seq.
2. Teacher may suspend from the teacher's class or class period for the day of suspension and the day following.
3. Teacher immediately reports to and sends pupil to principal or designee.
4. Teacher asks parent to attend parent/teacher conference which may, whenever practicable, also be attended by school counselor or psychologist.
5. Teacher and principal must concur in any decision to return the pupil to the class from which the pupil was suspended during the period of the suspension.
6. Teacher may require the pupil's parents or guardian to attend the pupil's class pursuant to Education Code Section 48900.1 and board policy for certain violations.

Education Code Section 48910

- (a) A teacher may suspend any pupil from the teacher's class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the principal's designee for appropriate action. If that action requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor or a school psychologist shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.
- (b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.
- (c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the principal's designee for consideration of a suspension from the school.

APPENDIX D

OTHER EDUCATION CODE 48900 SECTIONS OF INTEREST

Restrictions on days of suspension (Education Code Section 48903)

The total number of days for which a pupil may be suspended from school shall not exceed twenty school days in any school year unless for purposes of adjustment, a pupil enrolls or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of school days a pupil may be suspended shall not exceed thirty school days in any year.

Liability of parent/guardian for willful pupil misconduct; withholding of grades, diplomas and transcripts; voluntary work program (Education Code Section 48904).

(a) The parent/guardian of any minor whose willful misconduct results in injury or death to any pupil or any school employee or volunteer or who willfully cuts, defaces, or otherwise injures in any way, any property, or real or personal, belonging to a district or personal property of any school employee, shall be liable for all damages caused by the minor. The liability of the parent/guardian shall not exceed \$10,000.

The parent/guardian shall be liable for all property belonging to the district, loaned to the minor and not returned.

(b) (1) Any district whose real or personal property has been willfully cut, defaced, or otherwise injured, or loaned and willfully not returned upon demand (after notifying the pupil of his or her due process rights) may withhold grades, diploma and transcripts.

(2) The district shall notify the parent/guardian in writing of the pupil's alleged misconduct before withholding grades, diploma, or transcripts. A voluntary work program in lieu of payment may be provided when the minor and parent are unable to pay.

Withholding grades, diplomas, or transcripts; transfer to new school; notice to rescind decision to withhold (Education Code Section 48904.3)

(a) Upon receiving notice that the district has withheld grades, diploma or transcripts, any district to which the pupil has transferred shall likewise withhold grades, diploma, or transcripts until it receives notice that the decision has been rescinded.

Injury or damage to person or property of school district employee; willful misconduct; request for legal action by school district (Education Code Section 48905)

Underlining for emphasis

A school district employee, whose person or property is injured or damaged by the willful misconduct of a pupil, may request the district to pursue legal action against the pupil who caused the injury or damage, or the pupil's parent/guardian.

Applicable when the employee or property is:

- located on property owned by the district.
- being transported to or from an activity sponsored by the district or a school within the district.
- present at an activity sponsored by the district or school.
- otherwise injured or damaged in retaliation for acts lawfully undertaken by the employee in execution of the employee's duties.

APPENDIX E

_____ School District

Individual Education Plan Team Meeting Agenda

Date: _____

Student: _____

1. Welcome and Introductions
2. Purpose of the Meeting
3. Review of Parent Rights and Procedural Safeguards
4. Review of Current Levels of Performance
 - a. Evaluation of academic performance indicators
 - b. Evaluation of health, attendance and school history
 - c. Evaluation of social/emotional indicators
 - d. Evaluation of behavior
 - e. Evaluation of relevant information from parents or others knowledgeable about the student
5. Review of the Eligibility Criteria
6. Review, Discussion and Modification, if necessary, of the Student's Goals and Objectives
 - a. Academic areas
 - b. Social/emotional, if necessary
 - c. Behavior
 - d. Health concerns, if necessary
 - e. Transition plan
 - f. Designated instructional services, if necessary
 - g. Classroom modifications, if necessary
 - h. Other concerns
7. Discussion of Appropriate Service Options
8. Specific Offer of Placement by District
9. Determination and Parent Agreement with Program Recommendation and Placement

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APPENDIX F

Individual Conduct Plan Worksheet
(Attach to IEP/504 Plan)

DISCIPLINE OF SPECIAL EDUCATION STUDENT
Individuals with Disabilities Education Act
20 U.S. C. Sections 1400 et seq. reauthorized
Meeting Procedures to be held within 5-10 days of student's suspension

Education Code §48900 Violation _____

Dates of Suspension: _____ Completed by: _____ Date: _____

Discipline History: _____

Does the student have :

Individual Conduct Non-Hughes Bill? If yes, attach. _____ Yes _____ No

Hughes Bill Plan (AB2586). If yes, attach. _____ Yes _____ No

Plan Review _____

Modifications _____

Is the student's IEP program and placement appropriate? _____ Yes _____ No

Does the student appear to know the difference between
right and wrong? _____ Yes _____ No

Has the student made appropriate choices at other times? _____ Yes _____ No

Does the student's disability seem to impair his/her ability
to understand the impact and consequences of his/her
behavior? _____ Yes _____ NoDoes the student's disability seem to impair his/her ability
to control behavior? _____ Yes _____ No

Summary

Was the alleged behavior/violation related to the student's
disability? _____ Yes _____ No

Was the alleged behavior/violation related to an inappropriate educational placement?
_____ Yes _____ No

Cite evidence: _____

Would the student's presence in school cause a danger
or likely result in injury to the student or others? _____ Yes _____ No

Cite evidence: _____

IEP Team Findings and Recommendations: _____

APPENDIX G

INDIVIDUAL CONDUCT PLAN Suggested Strategies/Interventions

(Remember to take into account individual differences, setting variables, the pupil's environment, etc.)

NAME _____ DATE _____ BD _____
SCHOOL _____ TEACHER _____ CA _____
GRADE _____

PHYSICAL ARRANGEMENT OF ROOM

- ___ Seat student near positive role models (preferably opposite sex). Seat away from other high-risk students.
- ___ Seat away from distracting stimuli (air conditioner, fish tanks, high traffic area, stimulating bulletin boards).
- ___ Provide NON-PUNITIVE study carrel/office space for: a) work completion, or, b) time out to relax and “pull together.”
- ___ Increase distance between desks.

MOTIVATIONAL STRATEGIES

- ___ Stress and frustration increase disruptive symptoms. Eliminate “no-win” tasks and situations as much as possible.
- ___ Build relationship and rapport with student. Schedule regular times to talk and build self-acceptance.
- ___ Ask questions and begin tasks below instructional level to create an “I can do” mindset.
- ___ Build on strengths and remind of accomplishments.
- ___ Encourage development and sharing of a special interest such as _____.
- ___ Develop a class “mini lesson” around student’s special interest.
- ___ Allow for physical movement (distribute materials, run errands, etc.).
- ___ Allow for physical movement (distribute materials, run errands, etc.).
- ___ Allow frequent short breaks for relaxation and small talk to help reduce sensory “overload”.
- ___ Avoid oral reading or other difficult responses that might embarrass student.
- ___ Use visual reminder of progress (chart, graph, etc.).
- ___ “Clear the slate” often. Don’t let punishment or undone assignments build up!
- ___ Avoid comments that could demean, belittle, or “corner” a student. Offer choices, not ultimatums.
- ___ Ask some questions needing only a “yes” response to help break negative cycle.
- ___ Reinforce the importance of asking for help.
- ___ Emphasize novel and unusual subject matter or novel presentation of subject matter.
- ___ Insure that positive feedback significantly outweighs negative feedback.
- ___ If memory and attention is very poor, provide frequent delivery of concrete rewards/tokens.
- ___ Give opportunities for leadership and responsibility.

- ___ Use cooperative learning groups.
- ___ Tutor or assist younger students.

DISCIPLINE STRATEGIES

- ___ Repeat classroom rules simply and clearly. Post rules. Review often
- ___ Emphasize a clear, predictable framework and routine. Reduce surprises and ambiguity.
- ___ Deliver negative feedback in a low-key, business-like non-hostile manner.
- ___ Increase positive feedback IN ADDITION TO ignoring minor inappropriate behavior whenever possible.
- ___ Formalize a simple contract for a specific short term goal. Review daily to maintain focus and motivation (and decrease arguing!)
- ___ Implement classroom behavior management plan:
 - 1) Engage student's ideas into plan.
 - 2) Praise approximations of target behavior.
 - 3) Give privileges/rewards contingent on target behavior. (home and school if possible).
 - 4) If memory and attention is very poor, stress frequent delivery of concrete rewards/tokens.
 - 5) Make prudent but meaningful use of negative consequences.
 - 6) Chart progress.
- ___ Implement a simple school-home communication system (e.g. green card, etc.)

LESSON PRESENTATION and ATTENTION STRATEGIES

- ___ Insist on instructional readiness (body still, eye contact etc.). Reinforce this often.
- ___ Reiterate specific expectations of student.
- ___ Use short and concise sentences in giving directions. Repeat often
- ___ Use anticipatory set with frequent restatement of purpose.
- ___ Say student's name and make eye contact frequently.
- ___ Repetition, rehearsal and overlearning are critical. Frequently reinforce concepts and check for understanding.
- ___ Establish a special visual or touch signal to cue for attention. Refocus often with this cue.
- ___ Frequently require student to briefly review key points
- ___ Require student to actively engage and respond through multiple modalities (dry-erase board, thumbs-up, choral responding, etc.).
- ___ Stand by student whenever possible.
- ___ Require a high rate of responding at success level.
- ___ Keep instruction fast-paced and in short segments.
- ___ Vary voice pitch and pacing of lesson.
- ___ Provide visual aids and visual posting of key information.
- ___ Increase emotional relevance of critical material.
- ___ Increase sensory salience of critical material (e.g. color highlight, windows, touch, sound).
- ___ Avoid rote "busy work." Provide a variety of relevant activities during each lesson.
- ___ Utilize choral (whole class or small group) responding to model and support correct responses.
- ___ Teach memory strategies to help remember facts.
- ___ Use technology assisted instruction.
- ___ Emphasize auditory—visual—tactile—mode of presentation. De-Emphasize—

ASSIGNMENT COMPLETION

- ___ Write down simple, positive directions for easy reference.
- ___ Reduce reading level of assignments.
- ___ Shorten assignments and/or allow extra time to complete tasks, but **STILL KEEP TO A DEADLINE!**
- ___ “Chunk” work down into smaller steps. Reward for completion before giving next step.
- ___ Help student set time limit for each segment of work. “Challenge” him to beat his own time.
- ___ Change assignments more frequently.
- ___ Reinforce time on task (process) before task completion (product).
- ___ Hand out one at a time.
- ___ Allow for a short break between assignments.
- ___ Allow for increased movement within restricted area (stretching, kneeling, etc.).
- ___ Allow time out of seat to run errands, or other gross motor activities.
- ___ Allow typed or computer printed assignments.
- ___ Utilize self-monitoring and self-pacing strategies (e.g. chart, graph, timer, self-talk/slogan).
- ___ Utilize low level background music.

ORGANIZATION

- ___ Provide structured routine in written form.
- ___ Provide checklist or map to organize desk/materials.
- ___ Specifically teach and reward use of assignment sheet, calendar, binder, notebook.
- ___ Help set up timeline for completion of long assignments.
- ___ Ask student to repeat directions before beginning.
- ___ Highlight main concepts of a chapter.
- ___ Question student to help focus on important information.
- ___ Verbally cue for key ideas to help organize notes.
- ___ Put finished work on clipboard to be checked later.
- ___ Allow student to have extra set of books at home.
- ___ Ask parent to structure study time. Notify them of long term assignments.
- ___ Send simple daily/weekly progress reports home.
- ___ Assign cross-age or peer partner to review information, re-explain or to help organize
- ___ Minimize changes and pullouts.
- ___ Provide special alert and directions before transitions.
- ___ Teach summarizing skills.
- ___ Provide study hall time or study skills training.

CURRICULUM STRATEGIES

- ___ Student may not let you know he is having problems; make sure assignments Are started correctly before left alone.
- ___ Supply student with clear models and examples of work expected.
- ___ Use worksheets that are adequately spaced, visually clear, and have fewer items per page.
- ___ Avoid rote “busy-work” and excessive recopying.

- ___ Present critical information at the beginning of an assignment and rote items last in case of interruption.
- ___ Provide partial outlines of chapters, study guides, and testing outlines.
- ___ Do not require lengthy outside reading assignments.
- ___ Provide specific social skills and empathy training.
- ___ Use alternative texts or supplementary materials that students can read. (Resource teacher will assist.)
- ___ Reduce handwriting and copying tasks. Provide assignments that don't always require writing.
- ___ Allow projects to be presented through demonstrations, pictures, models.
- ___ Encourage good quality of work, not speed.
- ___ Use peer shared note taking on NCR paper.
- ___ Stress concrete ideas and hands on, or whole body involvement. Reduce abstractions!
- ___ Use experiential learning (field trips, case studies, interviews, manipulatives).
- ___ Use guided discovery vs. deductive learning.
- ___ Use interactive notebook and journals.

TEST TAKING

- ___ Allow open book exams.
- ___ Give oral exams and quizzes.
- ___ Use more objective, multiple-choice items; avoid essay items.
- ___ Provide all possible test items and select specific number with student.
- ___ Provide opportunities for extra drill before tests.
- ___ Allow extra time for exams.
- ___ Allow use of separate quiet room.
- ___ Give frequent short quizzes; avoid long tests.
- ___ Allow student to have a sample or practice test.
- ___ Ask student to contribute test items in advance.
- ___ Dictate answers into tape recorder.
- ___ Use calculator, spell check, computer.

GRADING

- ___ Credit correct attempts and correct process
- ___ Employ a per cent decrement (e.g. 30%. Turn in all of 10 assignments, but "throw out" 3 worst scores. Or 30% less of total points = A).
- ___ Evaluate actual knowledge, not handwriting or speed (e.g. portfolios, group projects, demonstrations).
- ___ Mark correct answers, not mistakes.

PARENT INVOLVEMENT

- ___ Attend parenting classes/support group.
- ___ Involvement with community agency.
- ___ Ensure regular and on-time school attendance.
- ___ Ensure home structure, routine, responsibility.

- ___ Model time away from T.V. (e.g. parent reading and parent-child reading).
- ___ Follow-through with progress sheets from school (monitor, give consequences, support teacher).
- ___ Provide home study space and organizational items.
- ___ Monitor or help with student's homework.
- ___ Pursue relevant medical/health issues.
- ___ Monitor and help ensure a healthy diet.

ADDITIONAL NOTES/INTERVENTIONS (Student commitments, other site-based services):

APPENDIX H

Notice of Intent to Conduct a Preexpulsion Assessment

Date: _____
To the Parents of _____
From: _____

Dear Parent,

Your child has been suspended from school based on alleged violation of Education Code Section(s) _____; _____ and has been recommended for expulsion. (description of the code)

In cases where the expulsion of a student receiving special education services is being processed, Section 300.504 of Title 34 of the Code of Federal Regulations requires the school district to conduct a preexpulsion assessment. The purpose of this assessment is to determine whether or not the alleged conduct was a manifestation of the student's disability. The school must review all relevant information including; current psychological evaluation(s), academic achievement and other diagnostic results, observations of the student, parent information, and the student's Individual Educational Program placement services. Under Education Code Section 48915.5, the school must also review the student's health and discipline records.

Based on the results of this assessment, the IEP team must determine that (1) the student's Individual Educational Program placement and the special education services, supplementary aids, and behavior intervention strategies were provided consistent with the student's plan, (2) the student's disability did or did not impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action, and (3) the student's disability did or did not impair the ability of the student to control the behavior subject to disciplinary action.

Enclosed with this notice, please find a copy of the Parent's Rights and Appeal Procedures for students receiving special education services.

School personnel will soon contact you to arrange for your child's assessment to be completed. Under Education Code Section 48915.5(e), parent(s) must make the student available for the assessment at a site designated by the district without delay.

If you have any questions regarding this matter, please contact me at _____.

Signature of Principal or Designee

Stanislaus SELPA

APPENDIX I
Notice to Conduct a Manifest Determination
Individual Educational Program Team Meeting
(To be sent at least 48 hours in advance of meeting date)

TO THE PARENTS OF: _____ Date: _____

An Individual Educational Program Team (IEP) meeting to share information and review the results of your child's pre-expulsion assessment is scheduled for:

TIME: _____

DATE: _____

PLACE: _____

We anticipate that the following staff members will be in attendance:

_____ Principal/Designee	_____ Adapted PE Teacher
_____ Special Education Teacher	_____ Speech and Language Specialist
_____ General Education Teacher	_____ Program Specialist
_____ Psychologist	_____ Resource Specialist
_____ Nurse	_____ Social Worker
_____ Diagnostician	_____ Other

The purpose of this meeting is to review all relevant information regarding your child's Individual Education Program in relation to the misconduct subject to possible expulsion proceedings by the district. By the end of this meeting, the Individual Education Program (IEP) Team will make five determinations: 1) whether the misconduct was caused by or was a direct manifestation of your child's disability, 2) whether your child was appropriately placed at the time the misconduct occurred, 3) whether your child has the capacity to understand the difference between right and wrong as it relates to the misconduct and understands the impact and consequences of his/her behavior and could control the behavior, 4) whether supplementary aids and services in your child's IEP were provided at the time of the misconduct, and 5) whether behavioral interventions were provided to your child consistent with the IEP and placement. If the answer is "no" to the first question and "yes" to the remaining questions, the district may proceed with the expulsion proceedings.

Depending on the findings of the IEP Team, an interim alternative educational setting may also be discussed. When an interim alternative educational setting is appropriate, federal law requires the alternative placement be selected so as to enable your child to continue to participate in the general curriculum and to receive those services described in your child's IEP. The district may unilaterally place a student in an appropriate interim alternative educational setting for up to 45 days in cases where the possession of weapons or controlled substances are issues. In other matters, if no agreement with parents can be reached regarding an interim alternative educational setting, the district may place the student in an appropriate interim alternative educational setting while the parents exercise their right to a due process hearing.

Please initial in the appropriate place below and return the yellow copy or phone me _____
_____.

_____ I plan to attend

_____ I plan to attend and will bring the following person who will speak for me:

_____ I do not plan to attend

If you cannot meet on the above date, the law allows you to a postponement of this meeting for up to 3 days.

I can meet on _____ or _____.

I also understand that I will receive a written copy of the results of the meeting.

Parent/Guardian Signature

Date

Stanislaus SELPA

APPENDIX J

_____ School District Manifestation Determination Assessment (MDA)

Note: To be used at pre-expulsion level or when the pupil has more that 10 days suspension. For pre-expulsion, attach to SE-6 or 504 plan.

Date of Meeting _____
Pupil's Name _____ Teacher/Counselor _____ Grade _____
Birthdate _____ Age _____ Primary Language _____ Male _____ Female _____
Parent/Guardian Name _____
Foster Parent: ____ Yes ____ No (If yes, does parent have education rights?)

Alleged Violation

Identified Disability (as per IEP, dated _____)

Current Placement

*The following assessment was completed at the SST or IEP meeting. (Circle one).

*

School History

How long has pupil attended current school? _____

Attendance: Regular _____ Irregular _____

Retained: Yes ____ No ____ If yes, what grade? _____

Additional services, if any (i.e., Title 1, DIS, GATE, etc.) _____

Other Information _____

Medical/Health

Are there any known medical conditions? _____

Is the pupil receiving treatment/medication, etc.? _____

Additional Information _____

Academic Progress/Performance

		Reading	Language	Math
Current achievement test date:	_____	_____	_____	_____
Have test results been consistent?	Yes _____	No _____		
Current grades:				

Anecdotal Information (from general education, special education, and other staff regarding study habits, learning style, organizational skills, etc.)

Social/Emotional

Psychological Assessment Summary: _____ Date of Last Assessment _____

Determination of Disability:

Is the pupil receiving counseling services: Yes _____ No _____

Behavioral

Does the pupil have an individual conduct plan? Yes _____ No _____
(if yes, attach)

Summary of Plan:

Discipline History (i.e., suspensions, referrals, detentions, etc.)

Does the pupil have a history with law enforcement? Yes _____ No _____

Is the pupil currently on probation? Yes _____ No _____

If yes, Probation Officer's Name _____

Attendance

Parent Information/Observations

Other Information

Does the pupil appear to know the difference between right and wrong?
Yes _____ No _____ Comments:

Has the pupil made appropriate choices at other times? Yes _____ No _____

Comments:

Assessment Summary/Findings (circle as needed)

In relation to the pupil's misconduct, the pupil's placement and IEP were/were not appropriate at the time the misconduct occurred.

Special education services, aides, and strategies were/were not provided.

The alleged behavioral/violation was/was not caused by or a direct manifestation of the pupil's disability.

Does the pupil appear to understand the impact and consequences of his/her behavior subject to disciplinary action? Yes_____ No_____

Does the pupil's disability impair his/her ability to control behavior subject to disciplinary action? Yes_____ No_____

Have the pupil's parent(s)/guardian(s) been advised of their due process rights, including uniform complaint procedures? Yes_____ No_____

Alternative Interim Placement

Is there a behavior assessment and plan needed? Yes_____ No_____

If yes: _____

Placement options related to FAPE: _____

Review of IEP Goals and Objectives: _____

How will the IEP goals and objectives, including the behavior plan, be implemented in the alternative interim placement? _____

Post-expulsion placement recommendation, if necessary: _____

Stanislaus SELPA

APPENDIX K

Pre-Expulsion Assessment Results Manifestation Determination

1. The pupil's Individual Education Program (IEP) and the pupil's placement were appropriate at the time of the alleged misconduct.
☐ Agree ☐ Disagree
2. The special education services and supplementary aides and services were being appropriately implemented at the time of the alleged misconduct.
☐ Agree ☐ Disagree
3. At the time of the alleged misconduct, behavior intervention strategies were being provided consistent with the pupil's IEP and the pupil's placement.
☐ Agree ☐ Disagree
4. The pupil's disability did not impair the pupil's capacity to understand the impact and consequences of the alleged misconduct.
☐ Agree ☐ Disagree
5. The pupil's disability did not impair the pupil's capacity to control the alleged misconduct subject to disciplinary action.
☐ Agree ☐ Disagree
6. In conclusion, the pupil's alleged misconduct leading to a disciplinary action involving a change of placement, is not an indication of, or caused by, the pupil's disability.
☐ Agree ☐ Disagree

Randall Ranes, Bakersfield City SD

APPENDIX L

School District Manifestation Determination IEP Meeting Agenda

1. Introduction
2. Parent Rights
3. Purpose of IEP and description of alleged misconduct
4. Review of Records
 - a. School History
 - b. Medical/Health Records
 - c. Academic Progress/Performance
 - d. Social/Emotional
 - (1) Psychological Assessment
 - (2) Determination of Disability
 - e. Behavioral
 - f. Discipline History/Records
 - g. Attendance
 - h. Parent Information/Observations
 - i. Other Information
5. Assessment Summary/Findings
6. Alternative Interim Placement

Stanislaus SELPA

APPENDIX M

_____ SCHOOL DISTRICT

SPECIAL EDUCATION DEPARTMENT

PRE-EXPULSION INDIVIDUALIZED EDUCATION PROGRAM ADDENDUM

Date of Meeting

Addendum Date

Date of Current IEP

Educational Placement including supplementary aids, services, and behavioral interventions, at time of alleged misconduct

Name

Birthdate

IEP Review Date

School

Program

Grade

Identified Disability

I. Purpose of meeting: Possible referral for expulsion as per Education Code Section 48915.5.

II. Summary of student's alleged misconduct: _____

III. First day of suspension: _____ (date)

IV. First day of alternative educational placement: _____ (date)

Alternative Educational Placement (AES) selected: _____

1. Student participating in General Curriculum while in AES? ____yes ____no

2. Student receiving services and modifications in current IEPs while AES?
____yes ____no

3. Student meeting IEP while in AES? ☐yes ☐no
4. Student receiving services and modifications designed to assess behavior so no recurrence?
☐yes ☐no

V. Pre-Expulsion Assessment:

1. Notice to Parent of Disciplinary Action ☐yes ☐no
2. Notice to Parent of Procedural Safeguards ☐yes ☐no
3. Pre expulsion Educational Assessment conducted in accordance with Title 34 Code Federal Regulations Section 104.32
☐yes ☐no
- (a) Date conducted: _____
- (b) Observations conducted? ☐yes ☐no
- (c) Observed by: _____
4. Pre-expulsion Educational Assessment received by IEP team
☐yes ☐no
5. Pre-expulsion Educational Assessment include review of appropriateness of student's placement at the time his/her alleged misconduct?
☐yes ☐no
6. Review results of Pre expulsion Educational Assessment.
7. Student's Health Records reviewed and considered by IEP team?
☐yes ☐no
8. Student's Discipline Records reviewed and considered by IEP team?
☐yes ☐no
9. Student with current Behavioral Intervention Plan to address student's behavior?
☐yes ☐no
10. Student without current Behavioral Intervention Plan to address student's behavior?
☐yes ☐no
- Assessment Plan for functional behavioral assessment developed and behavior intervention implemented? ☐yes ☐no
11. IEP placement reviewed and considered? ☐yes ☐no

12. Relevant information provided by student's parent reviewed and considered?

_____yes _____no

VI. Manifestation Determination of IEP Team:

1. Based on the results of _____'s pre-expulsion educational assessment conducted on _____and our review and consideration of his/her health records and discipline records, we the undersigned determine:

- (a) Alleged misconduct was not caused by or was not a direct manifestation of student's identified disability.
_____agree _____disagree
- (b) This student's IEP/placement was appropriate at the time the alleged misconduct occurred.
_____agree _____disagree
- (c) This student has the capacity to understand the difference between right and wrong as it relates to the misconduct, and understood the impact and consequences of his/her behavior and could control the behavior.
_____agree _____disagree
- (d) Supplementary aids and services in the student's IEP were provided at the time of his/her misconduct.
_____agree _____disagree
- (e) Behavioral interventions were provided to the student consistent with his/her IEP and placement.
_____agree _____disagree

VII. Recommendations:

- () Referral for expulsion.
- () Follow-up IEP meeting _____scheduled:
_____ (date)
- () Transfer to _____ (placement)
- () Referral to SARB or other agency _____
- () Remain in Alternative Educational Placement _____
- () Other _____

VIII. We have reviewed this pupil's current individualized Education Program and recommend the changes noted above.

Administrator or Designee/Date

*Parent/Parent Designee/Date

Special Ed. Teacher/Spec./Date

Pupil

Date

Counselor

Date

Other

Date

Documentation indicating rationale for meeting without the parent present:

*Signature of parent or guardian indicates permission for service.

Dissenting opinion: _____

Atkinson, Anderson, Loya, Ruud & Romo

APPENDIX N

NOTICE TO PARENT/GUARDIAN RE: EXPULSION RECOMMENDATION AND EXPULSION HEARING [AND EXTENSION OF SUSPENSION OF NON-SPECIAL EDUCATION STUDENT]

Date:

Parent/Guardian Name

Address

Dear _____:

As provided in Board policy, [student's name] is suspended from _____ School until such time as the Board of Education can meet and act on a request that has been submitted by _____, Principal, _____ School, that **[student's name]** be expelled from further school attendance in the _____ School District.

The suspension, as well as the request for expulsion, are based on allegations of [i.e., possession of a pocketknife, which constitutes a violation of Education Code Section 48900()].

In a case where expulsion is being processed, Education Code section 48911(g) and District regulations provide for the extension of the suspension until such time as the Board of Education has rendered a decision in the action, provided that the District Superintendent or designee has determined that the presence of the student at the school would cause a danger to persons or property or would be a threat to the instructional process.

I, as the **[District Superintendent or Superintendent's designee]**, upon review of the allegations during a meeting at which you and your child were invited to participate, have determined that the continued presence of [student's name] would cause a danger to persons **[and/or a danger to property and/or a threat of disrupting the instructional process]**. **[State specific facts to support contention that the student's presence on campus would cause a danger to persons, a danger to property and/or a threat of disrupting the instructional process]**. Therefore, I am hereby extending the current suspension of **[student's name]** pending final action by the Board of Education in this matter.

You are requested to attend a hearing before the **[Board of Education or a District Administrative Hearing Pane or a County Hearing Officer]** to be held on _____, 19____, at _____ . m. in the Board Room, at the District Office, which is located at _____. A request for postponement must be made in writing and must be received in my office at least five (5) days prior to the date of the hearing. If you desire a public hearing, you must notify me in writing at least five (5) days prior to **[date of hearing]**.

Enclosed you will find a copy of the regulations of the District which pertains to discipline as adopted for the government and discipline of the schools.

You are notified of the opportunity to:

1. appear in person or to employ and be represented by counsel (if you are to be represented by counsel, please notify me on or before [date];
2. inspect and obtain copies of all documents to be used at the hearing;
3. confront and question all witnesses who testify at the hearing;
4. question and challenge all other evidence presented;
5. present oral and documentary evidence on the student's behalf;
6. designate, and to be accompanied by, one or more representatives.

In addition, you are hereby informed that Education Code Section 48915.1(b) provides as follows:

- (b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

Should you have any questions or should you have need of any additional services, do not hesitate to contact me at _____, extension _____, between the hours of _____ a.m. and _____ p.m.

Sincerely,

Atkinson, Anderson, Loya, Ruud & Romo

APPENDIX O

NOTICE TO PARENT/GUARDIAN RE: EXPULSION RECOMMENDATION AND EXPULSION HEARING **[NO EXTENSION OF SUSPENSION]**

Date:

Parent/Guardian Name
Address

Dear _____:

As provided in Board policy, [student's name] was suspended from _____ School from _____ to _____. A request has been submitted by _____, Principal, _____ School, that [student's name] be expelled from further school attendance in the _____ School District.

The suspension, as well as the request for expulsion, is based on allegations of **[e.g., possession of a pocketknife, which constitutes a violation Education Code Section 48900]**.

You are requested to attend a hearing before the **[Board of Education or a District Administrative Hearing Panel or a County Hearing Office]** to be held on _____, 19__, at _____ .m. in the Board Room at the District Office, which is located at _____. A request for postponement must be made in writing and must be received in my office at least five (5) days prior to the date of the hearing.

If you desire a public hearing, you must notify me in writing at least five (5) days to **[date of hearing]**.

Enclosed you will find a copy of the regulations of the District which pertain to discipline as adopted for the government and discipline of the school.

You are notified of the opportunity to:

1. appear in person or to employ and be represented by counsel (if you are to be represented by counsel, please notify me on or before [date]);
2. inspect and obtain copies of all documents to be used at the hearing;
3. confront and question all witnesses who testify at the hearing;
4. question and challenge all other evidence presented;
5. present oral and documentary evidence on the student's behalf;

In addition, you are hereby informed that Education Code Section 48913.1(b) provides as follows:

- (b) if a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

Should you have any questions or should you have need of any additional services, do not hesitate to contact me at _____, extension _____, between the hours of _____a.m. and _____p.m.

Sincerely,

Atkinson, Anderson, Loya, Ruud & Romo

APPENDIX P

NOTICE OF EXPULSION ORDER

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Date

Parent/Guardian Name

Address

Dear (*Name of Parent/Guardian and Student*), AND EACH OF YOU:

This is to advise you that at a **[regular/special]** meeting held on **[day and date]**, the members of the Board of Education of the _____ School District, ordered the expulsion of **[student's name]** from the schools of the District. The Board of Education's decision was based upon a finding that **[other means of correction are not feasible or have repeatedly failed to bring about proper conduct, and/or due to the nature of your child's conduct, his/her presence causes a danger to the physical safety to himself/herself or others]**.

This is to further advise you that the Board of Education ordered that it will review **[student's name]** for readmission to a school maintained by the District on or before **[a date, not later than the last day of the semester following the semester in which the expulsion occurred [OR AT LEAST ONE CALENDAR YEAR FROM THE DATE THE EXPULSION OCCURRED UNLESS THE BOARD, IN ITS DISCRETION SETS AN EARLIER DATE, FOR STUDENTS EXPELLED PURSUANT TO EDUCATION CODE SECTION 48915(c)]**.

Attached for your information are the District procedures for the filing and processing of request for readmission and your child's rehabilitation plan as recommended by the Board.

The Board took final action to expel your child in public session. The Order of the Board is effective immediately.

You have the right to appeal this expulsion to the-_____ County Office of Education, **[address]**, within thirty (30) days following the decision of the Board of Education to expel **[student's name]**. The procedures are set forth in Education Code Section 48919, a copy of which is attached hereto for your information.

In addition, enclosed for your information is a list of alternative education programs available to your child during the term of **[his/her]** expulsion.

Furthermore, you are hereby informed that Education Code Section 48915.1(b) provides as follows:

January 2000

If a pupil has been **expelled** from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

If you have any questions concerning this case, please contact me at _____, Monday through Friday, between the hours of ____ a.m. and ____ p.m.

Sincerely,

Enclosures

cc: _____ County Board of Education

Atkinson, Anderson, Loya, Ruud & Romo

APPENDIX Q

NOTICE OF EXPULSION ORDER AND SUSPENSION OF EXPULSION ORDER

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Date

Parent/Guardian Name

Address

Dear **[Name of Parent/Guardian and Student]**, AND EACH OF YOU:

This is to advise you that at a **[regular /special]** meeting held on **[day and date]**, the members of the Board of Education of the _____ School District, ordered the expulsion of **[student's name]** from the school of the District. This is to further inform you that the Board of Education suspended the enforcement of **[student's name]** expulsion order for not more than one calendar year, if **[student's name]** complies with the following conditions:

1. _____
2. _____
3. _____
4. _____

etc.

In addition, you are informed that during the period of suspension of the expulsion order, [students name] shall be deemed to be on probationary status. The suspension of the expulsion of [student's name] may be revoked by the Board of Education upon his/her commission of any of the acts enumerated in Education Code Sections 489000(a-o), 48900.3, or 48900.4 and for violation of any District rules and regulations governing pupil conduct. Upon revocation of the suspension of the expulsion of **[student's name]**, he/she may be expelled under the terms of the original expulsion order.

The Board's decision was based upon a finding that **[other means of correction are not feasible or have repeatedly failed to bring about proper conduct, and/or due to the nature of your child's conduct, his/her presence causes a danger to the physical safety to himself/herself or others]**.

Furthermore, you are advised that the Board of Education ordered that it will review **[student's name]** for re- admission to a school maintained by the District on or before **[a date, not later than the last day of the semester following the semester in which the expulsion occurred]**. Attached

January 2000

for your information are the District procedures for the filing and processing of requests for re admission and your child's rehabilitation plan as recommended by the Board.

The Board took final action to expel your child in public session. The Order of the Board is effective immediately.

[OPTIONAL] Enclosed please find a copy of the Board's written decision in this case.

You have the right to appeal this expulsion to the _____ County Office of Education, [address], within thirty (30) days following the decision of the Board of Education to expel [student's name]. The procedures of appeal are set forth in Education Code Section 48919, a copy of which is attached hereto for your information.

In addition, enclosed for your information is a list of alternative education programs available to your child during the term of **[his/her]** expulsion.

Furthermore, you are hereby informed that Education Code Section 48915.1(b) provides as follows:

- (b) If a pupil has been expelled from his or her previous school for an act other than those in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

If you have any questions concerning this case, please contact me at _____, Monday through Friday, between the hours of ____ a.m. and ____ p.m.

Sincerely,

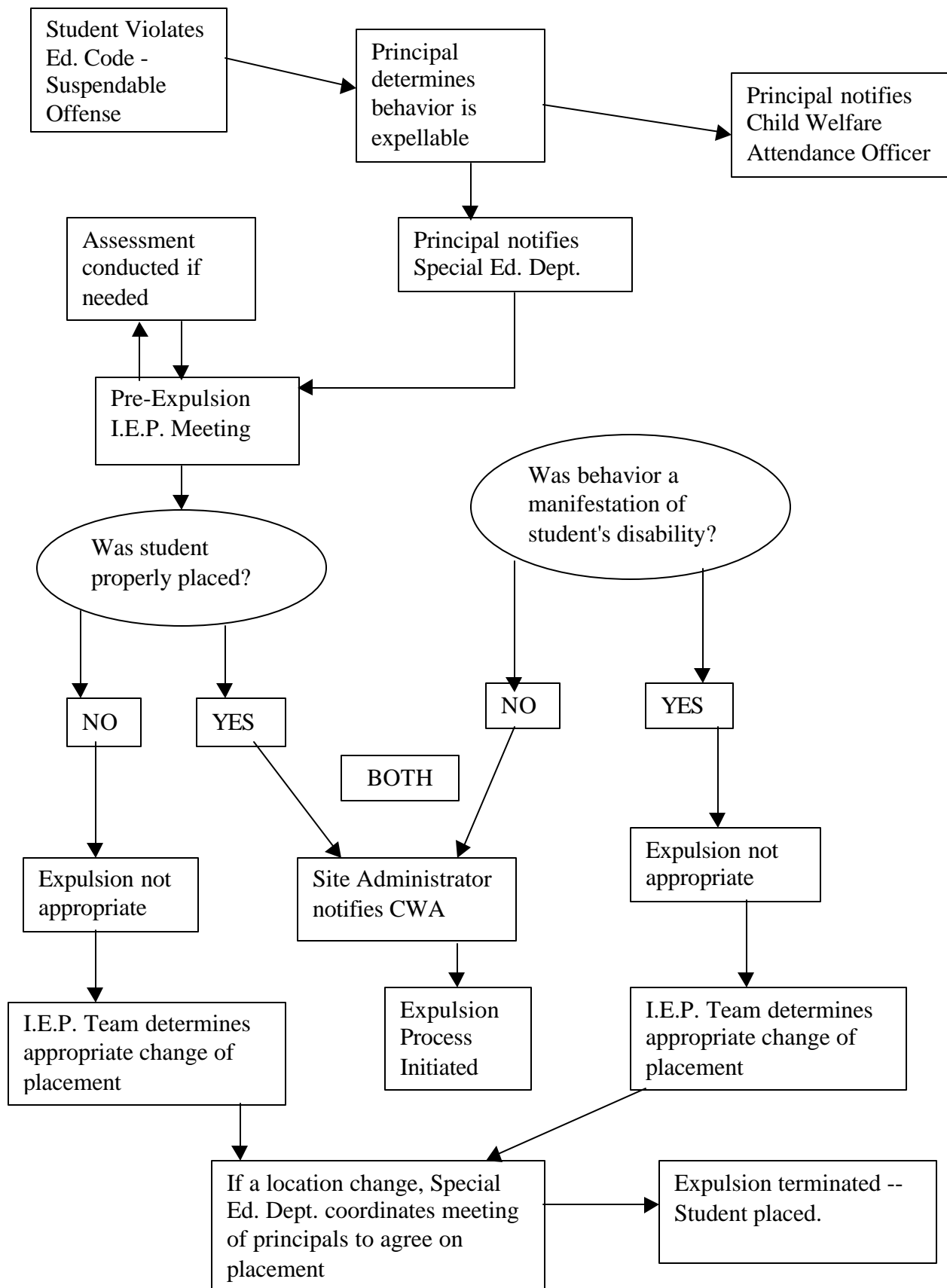
Enclosures

cc: _____ County Board of Education

Atkinson, Anderson, Loya, Ruud & Romo

APPENDIX R SPECIAL EDUCATION EXPULSION PROCESS

(Carol Proud, Capistrano Unified School District 8/29/97)



APPENDIX S

A LIST OF DO'S FOR EXPULSION HEARINGS

DO REMEMBER THAT:

1. Written notice of the hearing shall be forwarded to the pupil at least ten (10) calendar days prior to the date of the hearing. We advise such notice be sent certified mail, dated, return receipt requested, and be dated several days prior to the ten-day notice requirement.
2. The parents have a right to a continuance if they request one.
3. Each student is entitled to a separate hearing. Do not combine hearings for two students instead of having separate hearings for each student, even if they are involved in the same incident.
4. Direct testimony is needed at Expulsion Hearings, even if the parents are not present.
5. A decision to expel cannot be based solely on hearsay evidence. Therefore, in order for an administrative panel to find that grounds exist to expel a student, there must be some other evidence besides hearsay. (Education Code Section 48918(f). Technical rules of evidence do not apply to an expulsion hearing. However, a decision of a governing board to expel shall be supported by substantial evidence, if it is the kind of evidence which reasonable persons are accustomed to rely upon in the conduct of serious affairs. (Education Code Section 48918(h)).
6. Do tape record the hearing even if the parent is not present. Conduct the hearing as if the parent were there.
7. When the Board deliberates in closed session on whether to expel a student, only the Board and counsel for the Board should be present.
8. Make sure that the Administrative Panel prepares Findings of Fact in support of their decision. Make sure the governing board adopts the administrative panel's findings of fact if it decides to uphold the panel's recommendation to expel the student.
9. Student expulsions must be reported out in open session. You do not have to use the student's name. You can use their student identification number. It is okay to mention the Education Code sections that were violated. (Education Code Section 48918(i)).
10. Must notify parents in writing of their right to appeal the expulsion to the County Board within thirty (30) days of the District Board's decision to expel.
11. Do allow parents to appeal a suspended expulsion order.

12. Parents should be notified that they have a right to have an attorney present to represent them at the County Appeal Hearing. Also, notify parents if the District will be using an attorney.
13. If a parent decides to appeal an expulsion, it is the parent's responsibility to request a transcript of the expulsion hearing for the County Board. If the parents certify they cannot afford the cost of a transcript, the District must pay for it. If the County Board reverses the local Governing Board's decision to expel a student, the parent shall be reimbursed for the cost of the transcript.
14. When parents seek to enroll their student in another district, they must notify the new school district that the student has been expelled.

Carol Proud, Capistrano USD

APPENDIX T

A LIST OF DO NOT'S FOR EXPULSION HEARINGS

DO NOT:

1. Fail to preserve evidence needed at hearing.
 - a) painting over graffiti and no pictures taken.
 - b) not taking pictures of damages or physical injuries.
2. Fail to give parent opportunity to protest suspension (Education Code section 48911(g) prior to extending suspension pending Expulsion Hearing.
3. Fail to find the student's continuing presence constitutes a danger to self/others or disrupts the educational process (Education Code Section 48911).
4. No jurisdiction/challenges to jurisdiction.
 - a) year round schools and student were off track.
 - b) event starts at school, spills over into after school.
 - c) summertime activities or summer school - make clear school sponsored and rules apply.
5. Fail to comply with the "10 day rule" in Education Code Section 48918(h).
6. Fail to give parent packet district will use as evidence prior to the hearing. Do not use a different packet at hearing.
7. Fail to comply with Sworn Witness Affidavits and Testimony to Allow Panel to Admit Student's Statement (s) with Names Redacted. (Education Code Section 48918(f))
8. No evidence in record except hearsay. (Education Code Section 48918(f)). Hearsay exceptions:
 - a) Prior inconsistent statement(s).
 - b) Admission(s) against interest.
9. Admit anyone else to closed session deliberations besides Board members.
10. Fail to make explicit findings of fact, which must be personally signed by each member of the administrative panel.
11. Fail to demonstrate that other means of correction not feasible, or the student's presence causes a continuing danger if not mandatory expulsion offense(s).
12. Fail to comply with new sexual assault/battery procedural protections.

Carol Proud, Capistrano USD